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APPLICATION NO.	FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/904,786	07/1	2/2001	Avi Ashkenazi	10466/84	3015
30313	7590	09-26/2002			
		, OLSON & B	EXAMINER		
2040 MAIN S FOURTEEN			ANDRES, JANET L		
IRVINE, CA 92614				ART UNIT	PAPER NUMBER
				1646	(1
			DATE MAILED: 09/26/2002	11	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	09/904,786	ASHKENAZI ET AL.
Office Action Summary	Examiner	Art Unit
	Janet L Andres	1646
The MAILING DATE of this communica	tion appears on the cover sheet with	h the correspondence address
Period for Reply	DEDLY IO OFT TO EVOIDE A MO	NITH(0) FROM
A SHORTENED STATUTORY PERIOD FOR THE MAILING DATE OF THIS COMMUNICA  - Extensions of time may be available under the provisions of 3 after SIX (6) MONTHS from the mailing date of this communic  - If the period for reply specified above is less than thirty (30) dc  - If NO period for reply is specified above, the maximum statute  - Failure to reply within the set or extended period for reply will,  - Any reply received by the Office later than three months after earned patent term adjustment. See 37 CFR 1.704(b).  Status	ATION.  37 CFR 1.136(a) In no event, however, may a reposition.  ays, a reply within the statutory minimum of thirty period will apply and will expire SIX (6) MONT, by statute, cause the application to become ABA	ply be timely filed  (30) days will be considered timely.  HS from the mailing date of this communication.  NDONED (35 U.S.C. § 133).
	on	
1) Responsive to communication(s) filed		
,,	This action is non-final.	
<ol> <li>Since this application is in condition fo closed in accordance with the practice</li> <li>Disposition of Claims</li> </ol>		
4) Claim(s) 39-44 is/are pending in the ap	oplication.	
4a) Of the above claim(s) is/are v	withdrawn from consideration.	
5) Claim(s) is/are allowed.		
6) Claim(s) <u>39-44</u> is/are rejected.		
7) Claim(s) is/are objected to.		
8) Claim(s) are subject to restriction	n and/or election requirement.	
Application Papers		
9)⊡ The specification is objected to by the E	xaminer.	
10) The drawing(s) filed on is/are: a)	☐ accepted or b)☐ objected to by the	e Examiner.
Applicant may not request that any objecti		
11) The proposed drawing correction filed or	n is: a)□ approved b)□ dis	sapproved by the Examiner.
If approved, corrected drawings are requir	• •	
12) ☐ The oath or declaration is objected to by	the Examiner.	
Priority under 35 U.S.C. §§ 119 and 120		
13) Acknowledgment is made of a claim for	r foreign priority under 35 U.S.C. §	119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:		
1. Certified copies of the priority doc	cuments have been received.	
2. Certified copies of the priority doc	cuments have been received in Ap	plication No
	the priority documents have been re onal Bureau (PCT Rule 17.2(a)). or a list of the certified copies not re	-
14) Acknowledgment is made of a claim for c	domestic priority under 35 U.S.C. §	119(e) (to a provisional application).
a) ☐ The translation of the foreign languants. The constant is made of a claim for a second constant in the constant is made of a claim for a second constant in the constant is made of a claim for a second constant in the		
Attachment(s)		
Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-8) Information Disclosure Statement(s) (PTO-1449) Paper	-948) 5) Notice of Inf	ummary (PTO-413) Paper No(s) formal Patent Application (PTO-152)
Patent and Trademark Office O-326 (Rev. 04-01)	Office Action Summary	Part of Paper No. 11

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#### **DETAILED ACTION**

#### Priority

1. According to the priority statement of 20 August 2002, the claimed subject matter defined in the instant application is supported by parent application serial nos. 60/065186, 60/066770, 60/088026, PCT US98/19437, PCT US00/044144, and 09/665350. Based on the information given by applicant and an inspection of the patent applications, the examiner has concluded that the subject matter defined in this application is supported by the disclosure in application serial no. PCT US98/19437, filed17 September 1998 but is not supported by any of the earlier applications because no utility for the claimed polypeptide, PRO 335, is disclosed in the earlier provisional applications. The results of the MLR assays are first reported in PCT US98/19437. Accordingly, the subject matter defined in claims 39-58 has an effective filing date of 17 September 1998.

Should the Applicant disagree with the examiner's factual determination above, it is incumbent upon the applicant to provide the serial number and specific page number(s) of any parent application filed prior to 17 September 1998 that specifically supports the particular claim limitation for each and every claim limitation in all the pending claims which applicant considers to have been in possession of and fully enabled prior to 17 September 1998

# Specification

2. The disclosure is objected to because of the following informalities: There are sequences on pages 2, 14, and 16 that lack sequence identifiers. MPEP §2421.02 states that the sequence rules embrace all unbranched nucleotide sequences with ten or more bases and all unbranched,

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non-D amino acid sequences with four or more amino acids, provided that there are at least 4 "specifically defined" nucleotides or amino acids.

The disclosure is further objected to because the address of the American Type Culture Collection on p. 250 is incorrect. It is now located in Manassas, VA.

Appropriate correction is required.

## Claim Rejections - 35 USC § 112

- 3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 4. Claims 39-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 39, and by dependency claims 40-43 are drawn to antibodies that bind to the polypeptide of SEQ ID NO: 290, while claim 44 is drawn to an antibody that "specifically binds" to this polypeptide. "Specific binding" is not defined in the specification; one of skill in the art would not know what the metes and bounds of "specific" were intended to be and would not know what level of binding, and thus what antibodies, were included in the limitations of the claims. One of skill in the art would further not be able to differentiate "binding" as in claims 39-43 from "specific binding" as in claim 44 and would not be able to determine which molecules were encompassed by the different claims.

NO CLAIM IS ALLOWED.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet Andres, Ph.D., whose telephone number is (703) 305-0557. The examiner can normally be reached on Monday through Friday from 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, Ph.D., can be reached at (703) 308-6564. The fax phone number for this group is (703) 872-9306 or (703) 872-9307 for after final communications.

Communications via internet mail regarding this application, other than those under U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [yvonne.eyler@uspto.gov].

All Internet email communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark Office on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Janet Andres, Ph.D. September 25, 2002

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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